IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2127 OF 2005

Krishna Keshav Dama ..Petitioner

Versus

State of Maharashtra and Ors. ... Respondents.

Mr. R.K. Mendadkar for the petitioner.
Ms. Geeta Shastri, Assistant Government Pleader, for respondent Nos. 1 and 2.
Mr. R.S. Pai, instructed by M/s. Haresh Mehta and Company, for respondent No.3.

CORAM: **DALVEER BHANDARI, C.J.** &
S.J. VAZIFDAR, J.
DATE: **SEPTEMBER 06 2005**.

P.C.

The petitioner is aggrieved by the decision of respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Konkan Division,Thane, dated 31st August, 2004. The petitioner has prayed that directions be issued to respondent No.3-Bank of India to forthwith withdraw and/or cancel the memorandum dated 20th December, 2004. The petitioner has also prayed that respondent No.3-Bank of India, be directed to withdraw and/or cancel the punishment order dated 29th June, 2005 and to reinstate the petitioner on the post of sub-staff peon with all consequential benefits.

2. The petitioner has applied to the Scheduled Tribe Certificate

Scrutiny Committee, respondent No.2, for verification of his tribe claim towards Mahadeo Koli, Scheduled Tribe for service purpose, through the Zonal Manager, Mumbai South Zone, Bank of India, Mumbai. In order to verify the correctness of the tribe claim of the petitioner, the matter was handed over to the Vigilence Cell for inquiry. The Vigilence Cell furnished its report to the Committee on 2nd August, 1999, along with the documents viz. (i) the school and birth record of the applicant's senior relatives from paternal side to show his caste as Koli, and (ii) affinity of the applicant is not proved towards Mahadeo Koli, Scheduled Tribe.

3. A show cause notice was issued to the petitioner on 7th October, 1999, along with a copy of inquiry report. The petitioner was directed to file reply to the inquiry report within fifteen days. Since the reply was not filed within the stipulated period, another opportunity was given to file reply on or before 27th March, 2000. Even then, the petitioner did not file reply. He was again asked to appear for a personal hearing along with parents/elderly persons on 17th October, 2001. The petitioner requested for extension of fifteen days time vide his telegram dated 8th March, 2000. The petitioner ultimately filed his reply on 27th March, 2000. The Caste Scrutiny Committee considered

the available record, the vigilance report and other documents of the petitioner. According to the findings of the Committee, the school record of the petitioner's father, petitioner's father's brother as well as petitioner's father's sister clearly shows his caste as Koli right from 1st June, 1940. According to the Committee, this is evident from the following table, an extract of Raigad Zilla Parishad School, Mandhad, Tal. Mangaon, Dist. Raigad and the admission register, issued by Head Master of Raigad Zilla Parishad School.

Sr.No.	Reg.No./Book No.	Name of the pupil	Caste/Sub-Caste.	Date of Birth	Date of admission	Relation with the applicant.
1.	71/1	Keshav Kamala Dama	Koli	01/06/40	01/12/45	Father
2.	203/2	Sitabai Lakhama Dama	Koli	01/01/55	05/07/61	Paternal Cousin.
3.	350/2	Tai Lakhama Dama	Madhav Koli	01/06/58	05/07/65	Paternal Cousin.

According to the chart, the caste of the father of the petitioner and his paternal cousins is shown as Koli. It may be pertinent to mention that the petitioner had furnished the school leaving certificate wherein his caste is mentioned as Mahadeo-Koli. However, the caste of the petitioner's father, father's brother as well as father's sister is recorded as Koli in their primary school admission register. The school entries pertain to the period prior to proclamation of first Presidential Order. According to the Caste Scrutiny Committee, these school entries have

got great probative value. The Committee also mentioned that the caste is always acquired by birth and from paternal side. The finding of the Committee is that since the caste of the petitioner's father and paternal cousins is Koli, the caste of the petitioner cannot be different from that of his father.

4. The petitioner placed some reliance on the judgments of the High Court. The Committee in its order observed that all these decisions pertain to the period prior to the judgment of the Apex Court in the case of *Kumari Madhuri Patil and another* vs. *Addl. Commissioner, Tribal Development and others* (AIR 1995 SC 94). On the basis of documents on record, the Caste Scrutiny Committee came to the conclusion that the petitioner does not belong to Mahadeo Koli, Scheduled Tribe. According to the Committee, the petitioner belongs to Koli caste which is categorised in Special Backward Category. According to the categoric finding of the Committee, the petitioner's claim towards Mahadeo Koli, Scheduled Tribe, is devoid of any merit and the Committee has cancelled the caste certificate issued by the Executive Magistrate, Mangaon-Raigad, Dist. Raigad, on 9th March, 1995.

5. We have heard the learned counsel for the petitioner at length and carefully perused the impugned order of the Scrutiny Committee. In our considered view, the impugned order is based on the ratio of the Apex Court in *Kumari Madhuri Patil* (supra). We find no infirmity in the impugned order and no interference is called. The writ petition being devoid of any merit is accordingly dismissed.

6. The learned counsel for the petitioner submits that as far as the punishment order dated 29th June, 2005 is concerned, the petitioner would separately file an appeal before the Appellate Authority. The petitioner would be at liberty to approach the Appellate Authority against the punishment order dated 29th June, 2005.

CHIEF JUSTICE

S.J. VAZIFDAR, J.